IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 4389-CAT of 2007

Date of Decision : 22.03.2007

Naresh Kumar ... Petitioner

Versus

Central Administrative Tribunal and others. .. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. R.S. Manhas, Advocate,
for the petitioner.

J.S. Khehar, J. (Oral)

The selection and appointment of the petitioner – Naresh Kumar was subject matter of challenge in Original Application No. 436/PB of 2002 filed before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh. The Administrative Tribunal, while disposing the aforesaid Original Application on 14.10.2003, recorded its conclusion on the process of selection earlier conducted by the authorities inter-alia held, that the appointment of the petitioner was incorrect. Accordingly, while disposing the aforestated Original Application, the Administrative Tribunal passed the following directions:-

> "We, therefore, strongly feel that this OA should be dismissed, otherwise such cases will become a bad precedent in future. However, we would like to issue directions to the department to examine the whole case afresh and only to appoint that candidate who has higher merit on the basis of matriculation qualification, but was debarred because of non-owing of

immovable property in the village or being not a resident of village Karari."

According to the learned counsel for the petitioner, in compliance with the directions issued by the Administrative Tribunal on 14.10.2003, a fresh process of selection was commenced by inviting fresh applications. It is at the aforesaid juncture, that the petitioner preferred Original Application No. 1175/PB of 2004 before the Administrative Tribunal so as to assail the action of the respondents in conducting a fresh process of selection from amongst candidates, who are not applicants when the petitioner was selected and appointed at the first instance. The Original Application filed by the petitioner before the Administrative Tribunal was dismissed on 13.02.2007. Through the instant writ petition, the petitioner has impugned the order passed by the Administrative Tribunal, declining the claim of the petitioner raised in Original Application No. 1175/PB of 2004.

We are, prima facie, satisfied, that the issue raised by the petitioner before the Administrative Tribunal is only academic as the same does not, pointedly, raise a grievance which adversely affects the petitioner. In this behalf, it would be pertinent to mention, that the petitioner could be aggrieved if, in terms of the order passed by the Administrative Tribunal in the earlier Original Application dated 14.10.2003, the petitioner would have been placed at serial no. 1 in the merit list, on the basis of his achievement in the matriculation examination. Reference in this behalf, may be made to the relevant extract of the order dated 14.10.2003, reproduced herein above. In case the petitioner is not a beneficiary of the order dated 14.10.2003, on the basis of the directions which were issued by the Administrative Tribunal

(extracted herein above) whether or not any other person will be selected and appointed to the post, against which he was earlier selected and appointed, would be a consideration irrelevant to the petitioner himself.

In the aforesaid context, despite the fact that the issue projected herein above was brought to the notice of the learned counsel for the petitioner, he did not make any effort to contend, that in terms of the order dated 14.10.2003, the petitioner was the most meritorious candidate, on the basis of his achievement in the matriculation examination so as to be selected and appointed to the post of Extra Departmental Branch Postmaster. In our view, the continuation of the process of litigation at the hands of the petitioner is not at all justified, but is being pursued to continue in service, as the petitioner has been allowed to discharge his duties against the post of Extra Departmental Branch Postmaster and is still holding the said post, despite the earlier order dated 14.10.2003 and the instant order dated 13.02.2007.

Dismissed.

(J.S. Khehar)
Judge

March 22, 2007
vkd

(S.D. Anand)
Judge